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6 Attorneys for Defendant, Counterclaimant and  
7 Third Party Plaintiff, Richard K. Diamond

FILED & ENTERED

MAY 30 2014

CLERK U.S. BANKRUPTCY COURT  
Central District of California  
BY fortier DEPUTY CLERK

8 UNITED STATES BANKRUPTCY COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 LOS ANGELES DIVISION

11 In re

Case No. 2:11-bk-30426-BR

12 SMB GROUP, INC.,

Chapter 11

13 Debtor.

14 Adv. No. 2:13-ap-01020-BR

15 SMB GROUP, INC.,

16 Plaintiff,  
17 vs.  
18 RICHARD K. DIAMOND,  
19 Defendant.

20 ORDER RE: SPECIAL MOTION TO  
STRIKE COUNTERCLAIM PURSUANT  
TO ANTI-SLAPP STATUTE AND  
LITIGATION PRIVILEGE FILED BY  
SMB GROUP, INC. AS DOCKET ENTRY  
NO. 79 AND SETTING HEARING FOR  
JULY 9, 2014

21 RICHARD K. DIAMOND,

22 Counterclaimant,

23 vs.

24 SMB GROUP, INC., etc.,

25 Counter-defendant.

Date: April 3-4, 7, 17-18, 2014  
Time: 10:00 a.m.  
Ctrm.: "1668"  
255 E. Temple Street  
Los Angeles, California 90012

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2 RICHARD K. DIAMOND,  
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4 vs.  
5 IN CHUL SHIN, aka JEFF SHIN,  
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7 Third Party Plaintiff,  
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10 Third Party Defendant.

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The Court having considered the Notice Of Special Motion And Special Motion To Strike  
Counterclaim Pursuant To Anti-SLAPP Statute And Litigation Privilege And For Sanctions In The  
Amount Of \$61,964 filed on December 11, 2013 as Docket Entry Number 79 (“SMB’s Special  
Motion”) by the Plaintiff and Counter-defendant, SMB Group, Inc., as Chapter 11 debtor and  
debtor in possession (“SMB”), as well as other papers and testimony in the above captioned  
adversary proceeding (“the Action”); the Court having determined that SMB’s Special Motion was  
filed by SMB after the expiration of the sixty (60) day period provided for in Section 425.16(f) of  
the California Code of Civil Procedure (“the CCP”); the Court having further determined that  
SMB’s Special Motion was frivolous within the meaning of Section 425.16(c)(1) and Section 128.5  
of the CCP as well as being a motion subject to review under Section 1927 of Title 28 of the United  
States Code and other applicable law; and good cause appearing therefor; it is hereby,

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**ORDERED**, that, SMB’s Special Motion, be, and it hereby is, **DENIED**; and it is hereby  
further,

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**ORDERED**, that, any motion by Richard K. Diamond, as Defendant, Counterclaimant and  
Third Party Plaintiff in the Action (“Diamond”), to recover Diamond’s costs, expenses and/or  
attorneys’ fees from SMB and/or SMB’s attorneys in connection with SMB’s Special Motion  
should be noticed for a further hearing on July 9, 2014 at 10:00 a.m. before the undersigned

1 United States Bankruptcy Judge as well as filed and served by Diamond in conformity with Local  
2 Bankruptcy Rules 9013-1 through 9013-3; and it is hereby further,

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4 **ORDERED**, that, pending expiration of the time for Diamond to file and serve a motion  
5 pursuant to this Order and thereafter, in the event that Diamond files and serves a motion in  
6 accordance with this Order seeking to recover Diamond's costs, expenses and/or attorneys' fees  
7 from SMB and/or SMB's attorneys, this Court will retain jurisdiction to hear and determine any  
8 such motion filed by Diamond notwithstanding any appeal filed in this Action.

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Date: May 30, 2014



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Barry Russell  
United States Bankruptcy Judge